

**MOTOR VEHICLE DEALER BOARD
MINUTES
July 15, 2014**

The regular meeting of the Dealer Board was held at the Department of Revenue offices, Lakewood, Colorado. The following persons were present:

BOARD MEMBERS:

Anthony Brownlee
Robert Endter
Justin Franks
Joe Gebhardt
Mike Jorgensen
Stan Martin
Deborah Thompson
Jason Wagner

MEMBERS ABSENT:

Chris Hefty

**SENIOR DIRECTOR OF
ENFORCEMENT:**

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

Leland Bebee

**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:**

Chris Rouze
John Opeka
Gloria Breeden
Dave Heinrich
Cheryl Morrison
Kaye Kopecky
Brenda Fredricey
Rita Pugh
Arleen Criddell-Tapanen

ATTORNEY GENERAL'S OFFICE:

Brendon Reese
Skip Spear

VISITORS:

Todd O'Connell, CIADA
Tammi McCoy, CADA
Mike Picazo, Los Alto Auto Sales, LLC
Aaron Crawford, Summit View Motors
Paul Belsher, Mack's Auto Sales
Ricardo Valdivieso-Avalos, Alpine Buick GMC
Steffen Veam, NVS Autos Up
John Martin, Stevinson Chevrolet
Chad Nugent

Vice President, Jason Wagner, opened the meeting of July 15, 2014, at 9:00 a.m. Mr. Wagner turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no additions or corrections. Mr. Zulauf announced that Mr. Hefty and Ms. Y.E. Scott would not be in attendance today. Mr. Brendon Reese will be acting as General Counsel today on the Board's behalf and Mr. Skip Spear will be advising the Board as Conflicts Counsel. Mr. Zulauf announced the Governor's appointment of new Board members.

Mr. Zulauf read into record Executive Order #A2014150, appointing and reappointing the following:

- For a term expiring June 30, 2015, Michael E. Jorgensen of Colorado Springs, Colorado to represent Licensed Motor Vehicle Dealers for a position vacated by John Joseph Schenden of Cherry Hill Village, Colorado – appointed;
- For a term expiring June 30, 2016, Anthony E. Brownlee of Westminster, Colorado to represent Licensed Motor Vehicle Dealers for a position vacated by Beau Smith of Broomfield, Colorado – appointed;
- For the terms expiring June 30, 2017, Joseph R. Gebhardt of Loveland, Colorado to represent Licensed Motor Vehicle Dealers – reappointed;
- Justin James Franks of Denver, Colorado to represent Used Motor Vehicle Dealers – appointed;
- Robert Endter of Westminster, Colorado to represent the Public – appointed.

Mr. Wagner thanked the Division for their diligent effort in filling the vacancies on the Board. He welcomed and asked all new members to introduce themselves.

Mr. Zulauf read into record the Oath of Office, Statute C.R.S. 12-6-104(1). Ms. Kaye Kopecky administered the Oath to the Board Members.

Mr. Zulauf read into record the annual election of Officers to the Board, Statute C.R.S. 12-6-104(2). The following Board officers were elected:

- President – Jason Wagner
- Vice President – Joe Gebhardt
- 2nd Vice President – Deborah Thompson

Calendar – The regular Board meeting dates for the remainder of 2014 are as follows:

- **August 19, 2014**
- **September 16, 2014**
- **October 21, 2014**
- **November 18, 2014**
- **December 16, 2014**

Alternative calendar dates are used for Hearings, Rulemaking Workshops or special issues that may need to be brought before the Board. These dates are as follows:

- **August 28, 2014**
- **September 25, 2014**
- **October 23, 2014**

Mr. Zulauf stated he does not anticipate using the August 28th date but plans on using the September and October dates. He anticipates discussing Rulemaking at the August 19, 2014 meeting. The Board and Division are currently not in compliance with an Executive Order that the Division completes a review of 20% of the rules each year. There are currently nineteen (19) rules that need to be reviewed by November, 2014. The Division staff will meet on Wednesday, July 23, 2014 to discuss planning.

The Department of Revenue is in the process of reconstructing the current website. The website is expected to be active by October of this year.

Mr. Zulauf requested that Division staff and incumbent Board members take whatever time is necessary to assist new Board members with clarity and understanding of Board processes in the coming months.

Ms. Thompson asked if the new website would have the “Wheels” newsletter. Mr. Zulauf stated that at this time, and due to lack of staff, the Division has no plans to include Wheels on the new website. The possibility of future inclusion may be further discussed going forward.

MINUTES

The minutes of the June 17, 2014 Board meeting were approved unanimously with a correction to be made to the Final Order Discussion for Astro Imports, Inc. in the third line, changing “to” to “the”.

EXECUTIVE SECRETARY’S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Ortigas Auto Repair, Dealer #37756** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Super Truck Sales, Inc., Dealer #40123** – Motion to approve the Proposed Stipulation and Final Agency Order – approved unanimously.

Mr. Reese recused himself and left the room.

- **Initial Decision – Bauer, Kenneth P. #185748** – Motion to accept the Findings of Fact, Conclusions of Law and deny the license – approved unanimously.
- **Initial Decision – Mentel, Eric R. #159339** – Motion to accept the Findings of Fact, Conclusions of Law and deny the license – approved unanimously.

- **Initial Decision – Mondragon, Mario #159339** – Motion to accept the Findings of Fact, Conclusions of Law and grant a conditional license based upon applicant providing the standard letter from the employing dealer which includes the normal terms and conditions and proof of payment plan to settle court fees – approved (4-3, Thompson, Jorgensen and Gebhardt opposed).

Mr. Zulauf asked Skip Spear, Conflicts Counsel, to address the Board in regard to rehabilitation issues.

Mr. Spear informed the Board that his job as Conflicts Counsel is to give legal counsel and advice when it comes to rendering a decision in cases where a Dealer may have violated a statute and the license may need to be disciplined before the Board or before a Hearing Officer.

In terms of rehabilitation, Mr. Spear informed the Board that the rule is they can deny a license when a person has exhibited a certain element of criminal character or has committed a felony in the past. There is a statute in Colorado that says convicted felons should be given a second chance at life.

Mr. Spear recommended that in these instances, the Board table their decision until the next Board meeting and allow him the opportunity to take a look at the record on the Board's behalf and report his findings at the next month's meeting.

There was a general discussion about rehabilitation

- **Initial Decision – Hall, Korey Shane #26538** – Motion was made to enter Executive Session to discuss with Conflicts Counsel the matter regarding Korey Shane Hall. Executive Session will be held pursuant to C.R.S. 24-6-402(3)(a)(II) – passed unanimously.

The Board entered into Executive Session at 10:12 a.m. and resumed Open Session at 10:40 a.m.

Mr. Franks recused himself and left the room.

- **Initial Decision – Hall, Korey Shane #26538** – Motion was made to have Conflicts Counsel draft an Order of Remand for review at the August 19, 2014 meeting – passed unanimously.

Messrs. Reese and Franks returned to the room.

BACKGROUND INVESTIGATIONS TEAM

John Opeka presented the following:

- **White, Paul #187260** – Retabled for 30 days – approved unanimously.

Dealer Applications:

- **Boyz Toyz & Sonz Inc. #43013** – Motion to deny the license based on unfitness of licensing character – approved unanimously.
- **Boyz Toyz & Sonz Inc. #42791** – Motion to deny the license based on unfitness of licensing character – approved unanimously.

- **Los Altos Auto Sales LLC #42969** – Motion to deny the license based on financial character – approved unanimously.

Mr. Gebhardt recused himself and left the room.

- **NVS Autos LLP #43006** – Motion to grant the license – approved unanimously.

Mr. Gebhardt returned to the room.

- **Summit View Motors #42973** – Motion made to enter into Executive Session to discuss with Conflicts Counsel the matter regarding Summit View Motors. Executive Session will be held pursuant to C.R.S. 24-6-402(3) (a) (II) – passed unanimously.

The Board entered into Executive Session at 11:19 a.m. and resumed Open Session at 11:25 a.m.

Attorney General, Brendon Reese, stated that everything discussed by the Board during the Executive Session was limited to legal advice regarding Summit View Motors.

- **Summit View Motors #42973** – Motion to deny the license based on financial character – approved unanimously.

Salesperson Applications:

Mr. Franks recused himself and left the room.

- **Belsher, Paul #163477** – Motion to deny the license based on unfitness of criminal character and having been convicted of a misdemeanor under title 18 or any felony – approved (4-2, Brownlee and Jorgensen opposed).

Mr. Franks returned to the room.

- **Caballero, Jesus #187130** – Motion to deny the license based on unfitness of licensing character and material misstatement – approved unanimously.
- **Carlson, Cory #152706** – Motion to deny the license based on unfitness of criminal character, failure to disclose and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Faunce, Christopher #187189** – Motion to grant the license – approved (6-1, Thompson opposed).
- **Madison, James #151825** – Motion to grant the license – approved (6-1, Jorgensen opposed).
- **Martin, Johnathan #187017** – Motion to grant the license – approved (6-1, Jorgensen opposed).
- **Nugent, Chad #159572** – Motion to grant the license – approved (6-1, Jorgensen opposed).

- **Rivera, Darin #186762** – Motion to grant the license – approved (6-1, Jorgensen opposed).
- **Valdivieso-Avalos, Ricardo** – Motion to grant the license – approved unanimously.

INVESTIGATION REPORT:

Chief of Investigations Chris Rouze presented the following:

Statistical Reporting – Ms. Rouze informed the Board that we started with 444 cases, 163 new cases were opened and 175 cases were closed for the month, giving the Division a balance of 432 open cases. There were 350 background inquiries performed.

Affidavits of Probable Cause:

- **A & Z Import Auto Sales, Inc., DL #3341** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to A & Z Import Auto Sales, Inc., Dealer #3341; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Ehrlich Motors, Inc., DL #263** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Ehrlich Motors, Inc., Dealer #263; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Greeley Subaru, DL #42928** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Greeley Subaru, Dealer #42928; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Weld County Garage, Inc. DL #75** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Weld County Garage, Inc., Dealer #75; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Weld County Classics, LLC, DL #41685** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Weld County Classics, LLC, Dealer #41685; and that the case be assigned to the Colorado Motor Vehicle Dealer Board for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Wimmer, John D., SP #155836** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Wimmer, John D., Salesperson #155836; and that the case be assigned to the Colorado Department of Revenue,

Hearings Division for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.

New Business – The Board had a general discussion about the issuance of a professional salesperson license in the future. Mr. Zulauf stated that the changes involved would require statutory change. He also advised the best time to bring this item to the table would be at the upcoming Sunset Review in 2016. He stated that prior to Sunset, numerous focus groups need to be established to debate all issues involved beginning in the Fall of this year.

Mr. Zulauf distributed a copy of The Electronic Media Technologies Focus Group Report, prepared in April, 2014, to each new Board member.

Public Comment – There was no public comment.

The regular meeting of the Motor Vehicle Dealer Board was adjourned at 12:45 p.m.

(Note: The Minutes of the Motor Vehicle Dealer Board summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the Board and the actions the Board took. The digital recording of the meeting is a permanent record of the Board, retained in the electronic filing system of the Auto Industry Division, and is available as a resource for review, as needed.)

Bruce Zulauf
Executive Secretary